

April 28, 2003

Ms. Kim Cotto
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001

RE: NEPA Scoping Document 2 and Amended CEQA Notice of Preparation for Oroville Facilities P-2100 Relicensing Comments

Dear Ms. Cotto:

We appreciate the opportunity provided by this comment period to clear up some confusion contained in the *NEPA Scoping Document 2 and Amended CEQA Notice of Preparation for Oroville Facilities Relicensing FERC Project No. 2100*, which was released February 25. Specifically, the section titled "Temperature Requirements" on pages 10-11 contains a number of errors and outright falsehoods.

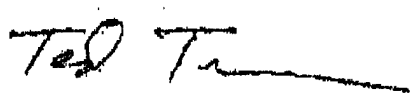
As you should know, the Joint Water District's Board and Western Canal Water District entered into agreements with the Department of Water Resources (DWR) in 1969 (and amended in 1986) to receive water from the Thermalito Afterbay at a temperature that would not harm crop production. Dr. Cass Mutters, with the University of California Cooperative Extension has made a presentation before two of the FERC relicensing committees outlining his findings that the diverters are receiving water that is approximately 10° F colder than water diverted prior to the construction of Oroville Dam. Dr. Mutters' study has also concluded that the temperature of the water received by the diverters has had a devastating effect on rice production, and in some cases has prevented rice growth from occurring.

The sentence contained in the last paragraph of the "Temperature Requirements" section stating that "there is no obligation for DWR to meet the rice water temperature goals," is blatantly false and totally ignores the 1969 agreements signed with the diverters. According to the Joint Water Districts Board's agreement language, "This Agreement does not relieve State or its officers, agents or employees from liability to or from damages to Districts or third parties arising out of failure of State at any time to comply with this Agreement or the diversion schedules or notices given by Joint Manager pursuant hereto or from injuries to crops or production of crops due to reduction in temperature of water available to Districts during any portion of any Irrigation Season or seasons as a result of water released from Lake Oroville being colder than water that would have been available in the Feather River for diversions by Districts if Oroville Dam had not been constructed [emphasis added]." (Agreement on Diversion of Water From the Feather River, May 27, 1969)

Please see the attached suggested changes to the last paragraph in the "Temperature Requirements" section, which are in "strike and insert" format.

If you have any questions regarding the agreement or water temperatures, please do not hesitate to call Ted Trimble at (530) 342-5083, Doak Cotter at (530) 846-3307, or Todd Manley at (916) 442-8333.

Sincerely,



Ted Trimble
General Manager
Western Canal Water District



Doak Cotter
Secretary-Water Master
Joint Water Districts Board



Todd Manley
Director of Government Relations
Northern California Water
Association

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During the irrigation season (April-September), ~~the hatchery and river water temperature objectives sometimes~~ often conflict with temperatures desired by agricultural diverters. Under existing agreements, DWR provides water for the Feather River Service Area (FRSA) contractors. In 1969, as a condition for granting water rights to the State for diversion and storage of SWP supplies at Oroville Dam on the Feather River, DWR entered into agreements with the water users who would divert out of the Thermalito Afterbay once the project was completed to provide water at a temperature that would not harm agricultural production. If DWR could not provide water at an acceptable temperature, the agreements preserved the State's liability for damages to the diverters or third parties. The contractors claim a need for warmer water during the irrigation season spring and summer for rice germination and growth (i.e., 65°F from approximately April through mid May, and 59° F during the remainder of the growing season). Rice is the primary crop grown in the areas irrigated by Thermalito Afterbay diversions. A recent University of California study is showing that the Thermalito Afterbay diverters are receiving water during the irrigation season that is cold enough (up to 10° F below the acceptable minimum temperature) to harm, or in some cases prevent, agricultural production. Little or no warming is currently occurring within the Afterbay. The reasons why the facility is not supplying the intended warming effect are not clear, but must be evaluated. There is no obligation for DWR to meet the rice water temperature goals. However, to the extent practical, DWR does use its operational flexibility to accommodate the FRSA contractor's temperature goals.